



State of New Hampshire
PUBLIC EMPLOYEE LABOR RELATIONS BOARD

Philip Wright

Petitioner

v.

SEA/SEIU Local 1984, AFL-CIO

Respondent

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Case No. S-0433-1

Decision No. 2007-013

PRE-HEARING MEMORANDUM AND ORDER

BACKGROUND

Philip Wright filed an unfair labor practice complaint on November 16, 2006. He claims he is unlawfully being charged an agency fee when he does not belong to a bargaining unit represented by the SEA/SEIU Local 1984 ("SEA") or, if he is in a bargaining unit represented by the SEA it is unlawful pursuant to RSA 273-A:8, II because he is a supervisor.

The SEA filed an Answer and Exceptions on December 1, 2006. The SEA claims: 1) that the complaint should be dismissed for failure to state a claim under RSA 273-A:5; 2) Mr. Wright lacks standing to bring the complaint; 3) Mr. Wright's complaint is, in substance, a modification proceeding which is improper because he lacks standing per Pub 302.05 (d) and is precluded from proceeding by the contract bar rule, Pub 301; 4) Mr. Wright has waived his arguments because he was a charging part in PELRB Case No. S-0411-2; 5) Mr. Wright's claims are barred by judicial estoppel, res judicata, collateral estoppel, and laches; 6) Mr. Wright seeks to remain a "free rider" who has accepted benefits of the collective bargaining agreement negotiated by the SEA without paying his fair share; 7) Mr. Wright has improperly delayed in bringing his complaint; and 8) The bargaining unit is grandfathered and accordingly dismissal is required.

On December 1, 2006 Mr. Wright filed a motion to amend which is the subject of an earlier decision. See PELRB Decision No. 2007-004. On January 5, 2007 Mr. Wright filed another amendment request seeking to amend the charging party to include a list of ten specified employees. He also seeks to amend his Statement of Available Remedies to remove the names of four employees. On January 18, 2007 the SEA filed an Objection to Mr. Wright's January 5, 2007 amendment request.

The undersigned-hearing officer conducted an informal pre-hearing conference on January 19, 2007 at the PELRB offices in Concord, New Hampshire.

PARTICIPATING REPRESENTATIVES AT PRE-HEARING CONFERENCE

For the Petitioner: Philip Wright

For the SEA: John Krupski, Esq.

ISSUES PRESENTED FOR BOARD REVIEW

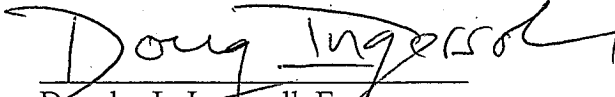
- (1) Whether Mr. Wright is barred or prevented from having his complaint addressed on the merits for any of the reasons argued by the SEA?
- (2) What is Mr. Wright's bargaining unit status and whether Mr. Wright should continue to pay an agency fee given his bargaining unit status?

DECISION

- 1) At the pre-hearing conference counsel for the SEA stated he would like to proceed with the filing of a motion to dismiss. Any motions to dismiss shall be submitted on or before February 8, 2007. Any objections to any motion to dismiss shall be submitted within fifteen days of the filing of the motion to dismiss per Pub 203.03.
- 2) Mr. Wright's January 5, 2007 amendment request is granted in part and denied in part. Paragraph 1 of his request is denied because charging parties should be named and should sign the original complaint under oath at the time it is filed. To date the PELRB has not received anything signed under oath or otherwise by the purported additional charging parties. At this juncture any such filing by the purported additional charging parties should be in the form of a separate unfair labor practice complaint with such references to the within proceeding as these additional charging parties, if any, deem necessary and appropriate. The balance of Mr. Wright's suggested amendment is allowed to the extent it is still requested.
- 3) Witnesses, exhibits, the scheduling of an adjudicative hearing, and other matters will be addressed upon the disposition of any motion to dismiss filed pursuant to the preceding paragraph.

So Ordered.
January 22, 2007

John S. Krupski, Esq.
Philip Wright
Sara Willingham


Douglas L. Ingersoll, Esq.
Hearing Officer